

MINUTES

HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

DATE: Tuesday, March 05, 2019

TIME: 1:30 pm OR Upon Adjournment

PLACE: Room EW42

MEMBERS: Chairman Dayley, Vice Chairman Chaney, Representatives Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy (Maurin), Young, Gannon, McCrostie, Wintrow, Davis

**ABSENT/
EXCUSED:** Representative McCrostie

GUESTS: Barry Wood, Jason Spillman, AOC/ISC; Colin Nash, Senate intern

Chairman Dayley called the meeting to order at 1:31 p.m.

S 1018aa: **Jason Slade Spillman**, Legal Counsel, Administrative Office of the Courts and Idaho Supreme Court presented **S 1018aa**. He stated this bill and three of the following bills are part of the court's annual clean up that requires the courts to correct defects or omissions in the law. The original bill was a one word change in §18-2509, which outlined the penalty for aiding a person from escaping from a state institution. The prior version of the bill related that penalty to the entire section of code, which include several escape crimes including a felony escape, so it created the argument that this misdemeanor penalty applied to these other parts of the section. Mr. Spillman explained that instead of referencing the entire act, the bill references the correct section of code (§18-2508). **S 1018aa** sets forth the language of §18-2508. However, the Senate thought some of the language in §18-2508 was outdated and offensive. At the direction of the Senate, Mr. Spillman provided revised language and some of that was adopted as referenced in **S 1018aa**. The penalty provision, that was originally in §18-2509, was inserted into §18-2508. Therefore, the bill also repeals the penalty section of §18-2509. The Senate recommended the bill include a general misdemeanor penalty.

Rep. Marshall stated he is still concerned the Legislature declares guilt by the way this bill is drafted. He stated laws should describe what constitutes a violation and upon conviction the punishment should be applied. Then the punishment should be defined. The punishment for the crime listed in this bill is a misdemeanor.

MOTION: **Rep. Goesling** made a motion to send **S 1018aa** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Goesling** will sponsor the bill on the floor.

S 1019: **Jason Slade Spillman**, Legal Counsel, Administrative Office of the Courts and Idaho Supreme Court presented **S 1019**. According to Mr. Spillman, Section 5-508 allows the court to serve a civil summons via publication in a newspaper. Currently, the code also directs that a copy be mailed to defendants, but it confusingly requires the clerk to direct such a mailing. A judge actually orders this and not the clerk. This bill corrects the error along with other technical corrections.

MOTION: **Rep. Wintrow** made a motion to send **S 1019** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Kerby** will sponsor the bill on the floor.

S 1021: **Jason Slade Spillman**, Legal Counsel, Administrative Office of the Courts and Idaho Supreme Court presented **S 1021**, which deals with processing the debts owed to the courts in criminal cases. Mr. Spillman explained this can be satisfied through remaining cash bail monies in deposit. Section 19-2908 allows any money remaining be applied to debts owed to the court after the defendant is found guilty. However, there are two oversights in current law. This bill corrects this by allowing court debts to be paid with remaining bail monies when a judgement is withheld and also can be applied to debts resulting from civil case infractions. In answer to a question from the Committee, Mr. Spillman stated the person posting bail is notified that remaining bail monies are applied to court debts. Yielding to a follow-up question, **Barry Wood**, Senior Judge, Administrative Office of the Courts and Idaho Supreme Court stated, the Idaho Bail Act resulted in guidelines that state bail is placed in deposit and a party posting bail on behalf of another person must sign a notice so they are aware of the consequences for doing so.

MOTION: **Rep. Kerby** made a motion to send **S 1021** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Kerby** will sponsor the bill on the floor.

S 1022: **Jason Slade Spillman**, Legal Counsel, Administrative Office of the Courts and Idaho Supreme Court presented **S 1022**. Mr. Spillman stated this bill resolves a conflict in two penalty provisions for evading jury duty. This bill repeals § 2-217. I.C. §7-610 is the Legislature's most recent policy expression regarding the maximum penalties for juror contempt and will remain intact.

MOTION: **Rep. Kerby** made a motion to send **S 1022** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Gannon** will sponsor the bill on the floor.

S 1042: **Jason Slade Spillman**, Legal Counsel, Administrative Office of the Courts and Idaho Supreme Court presented **S 1042**. Mr. Spillman explained that current law requires new magistrate judges to attend the magistrate institute before taking the bench. These judges take the bench at different times, but the institute is only offered once a year. Therefore, this requirement is not practical. This bill amends the law to allow judges to attend the magistrate institute within one year of taking the bench. Mr. Spillman explained magistrate judges attend extensive orientation training.

MOTION: **Rep. Wintrow** made a motion to send **S 1042** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Wintrow** will sponsor the bill on the floor.

S 1043: **Jason Slade Spillman**, Legal Counsel, Administrative Office of the Courts and Idaho Supreme Court presented **S 1043**. Mr. Spillman stated the number of district judges per district is set by statute. This bill increases the number of judges in the fourth district from 11 to 12. The judge will reside in Ada County. The last time a judge was added was in 2013. Since that time the population has increased 16 percent. Mr. Spillman stated Ada County district judges are feeling the stress of long work hours and burdensome case loads. He reviewed the fiscal note by explaining the counties are obligated to provide work space and staff support. Ada County has acknowledged the need and has agreed to absorb the cost for support. He also explained there currently is a judicial salary compensation bill that mirrors the three percent compensation increase for other state employees. If that bill passes, the fiscal note would increase by \$4,000.

MOTION: **Rep. Ehardt** made a motion to send **S 1043** to the floor with a **DO PASS** recommendation.

In answer to a question from the Committee, **Mr. Spillman** stated the return on investment for the \$256,000 needed to fund the new judge and court reporter equates to an improved system for citizens who deserve to have their cases resolved in a timely, fair and efficient manner. Not providing this judgeship compromises Ada County's ability to do this. He also explained the fines and fees collected from the cases this new judge will handle will be dispersed in a myriad of ways based on the priority of payments identified by the Legislature.

**VOTE ON
MOTION:**

Chairman Dayley called for a vote on the motion to send **S 1043** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Amador** will sponsor the bill on the floor.

ADJOURN:

There being no further business to come before the Committee, the meeting adjourned at 2:03 p.m.

Representative Dayley
Chair

Wendy Carver-Herbert
Secretary